

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANA NESSEL,

Plaintiff,

v.

ENBRIDGE ENERGY LIMITED
PARTNERSHIP, et al.,

Defendants.

Case No. 1:21-cv-1057

HON. JANET T. NEFF

ORDER

Pending before the Court is Plaintiff's Motion for Relief from Order to Strike (ECF No. 14), in which she asks the Court to reconsider the order striking Plaintiff's Motion to Remand. For the reasons stated below, Plaintiff's Motion for Relief is granted.

On January 5, 2022, the Court issued a Scheduling Order (ECF No. 9), requiring Plaintiff to serve her Motion to Remand on opposing counsel and file a proof of service by February 2, 2022. The Motion to Remand was to be filed on the public docket once the motion was fully briefed (*id.*). On January 14, 2022, Plaintiff filed the Motion to Remand and Brief in Support on the public docket (ECF Nos. 10 and 11). On January 18, 2022, the Court *sua sponte* struck the Motion for failure to comply with the Scheduling Order (ECF No 12).

"A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be *made* within 30 days after the filing of the notice of removal under section 1446(a)." 28 U.S.C. § 1447(c) (emphasis added). Plaintiff explains that several courts have held that a remand motion is made when the motion is filed (ECF No. 15 at PageID.553). Plaintiff is

concerned that by following this Court's Scheduling Order, Defendants could argue that the Motion to Remand was not made within the 30-day statutory requirement.

The Court finds that Plaintiff's Motion to Remand was made on January 14, 2022—when Plaintiff served it on opposing counsel and filed a proof of service. But, as pointed out by Plaintiff, the case law is not entirely clear on this issue. To avoid any confusion, the Court will vacate its Order to Strike and allow Plaintiff's Motion to Remand to remain on the public docket.

Accordingly,

IT IS HEREBY ORDERED that the Motion for Relief from Order to Strike (ECF No. 14) is GRANTED and the Order to Strike (ECF No. 12) is VACATED. The record shall reflect that Plaintiff's Motion to Remand and Brief in Support were filed on January 14, 2022.

IT IS FURTHER ORDERED that all other deadlines and requirements in the January 5, 2022 Scheduling Order remain the same.

Dated: February 8, 2022

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge